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June 20, 2019

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VIA ECF

The Honorable Denise L. Cote
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY

Re: *Watson v. Kellogg Sales Company*, Case No. 1:19-cv-1356-DLC
Request to Modify Briefing Schedule on Motion to Dismiss First Amended Complaint

Dear Judge Cote:

We represent Defendant Kellogg Sales Company in the above-referenced case. We write to request a modified briefing schedule on Kellogg's motion to dismiss Plaintiffs' First Amended Complaint.

After Kellogg moved to dismiss the initial Complaint, Plaintiffs filed a First Amended Complaint on Sunday, June 16. The First Amended Complaint differs significantly from the initial Complaint. Among other things, it:

- Alleges that Kellogg's use of the term "Grahams" violated various FDA food labeling regulations not referenced in the initial Complaint;
- Includes different allegations relating to consumers' understanding of the challenged labeling;
- Includes a new claim under the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301;
- Joins five new named Plaintiffs from California, Idaho, Illinois, Kansas, and Washington; and
- Asserts new claims under the consumer protection laws of all fifty states on behalf of a nationwide class.

Kellogg's motion to dismiss is currently due on Monday, July 1. Kellogg needs additional time to investigate and research these new claims and to prepare a motion to dismiss. Pursuant to Section I(E) of this Court's standing order, and in light of the significant new allegations in the First Amended Complaint, Kellogg respectfully requests that the Court enter the following briefing schedule on its motion to dismiss the First Amended Complaint:

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- July 19, 2019: Deadline for Kellogg to file motion to dismiss;
- August 9, 2019: Deadline for Plaintiffs to oppose Kellogg's motion to dismiss;
- August 23, 2019: Deadline for Kellogg to file reply brief.

This is Kellogg's first request for a modified briefing schedule. (Kellogg previously had additional time to file its initial motion to dismiss due to a waiver of service and submitted to the Court an agreed-upon briefing schedule on its motion to dismiss, which was mooted when Plaintiff filed his First Amended Complaint.) The proposed schedule tracks the earlier schedule: it extends Kellogg's deadline to move to dismiss; gives Plaintiffs three weeks to oppose Kellogg's motion to dismiss; and gives Kellogg two weeks to file its reply brief.

I have conferred with Plaintiffs' counsel, Spencer Sheehan, who advises that he has no objection to Kellogg's proposed briefing schedule.

Respectfully submitted,

/s/ Elizabeth A. Edmondson